

Report Date: January 16, 2018

**United States District Court**

**for the**

**Eastern District of Washington**

**Petition for Warrant or Summons for Offender Under Supervision**

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**JAN 16 2018**

SEAN F. McAVOY, CLERK  
DEPUTY  
SPOKANE, WASHINGTON

Name of Offender: Austin Baun Gavello

Case Number: 0980 1:15CR02039-WFN-1

Address of Offender: Unknown

Name of Sentencing Judicial Officer: The Honorable James Hutton, U.S. Magistrate Judge

Name of Supervising Judicial Officer: The Honorable Wm. Fremming Nielsen, Senior U.S. District Judge

Date of Original Sentence: December 7, 2015

Original Offense: Theft of Government Property, 18 U.S.C. § 641

Original Sentence: Probation: 36 months

Type of Supervision: Probation

Asst. U.S. Attorney: Scott Jones

Date Supervision Commenced: December 7, 2015

Defense Attorney: Roger Peven

Date Supervision Expires: December 6, 2018

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**PETITIONING THE COURT**

To issue a warrant.

The probation officer believes that the offender has violated the following condition(s) of supervision:

Violation Number      Nature of Noncompliance

- 1      **Mandatory Condition # 1:** The defendant shall not commit another Federal, state, or local crime.

**Supporting Evidence:** On October 4, 2016, Mr. Gavello was informed of his conditions of probation and given a copy of his judgment. Mr. Gavello understood that he needed to follow all conditions of probation. Specifically, that he shall not commit another Federal, state, or local crime.

On January 13, 2018, Austin Gavello was found in possession of a black tar substance while a resident at the Spokane Residential Reentry Center (RRC). He admitted to RRC staff that the black tar substance that he was in possession of was heroin. Possession of any amount heroin in the State of Washington is a felony.

- 2      **Mandatory Condition # 2:** The defendant shall not illegally possess a controlled substance.

**Supporting Evidence:** On October 4, 2016, Mr. Gavello was informed of his conditions of probation and given a copy of his judgment. Mr. Gavello understood that he needed to follow all conditions of probation. Specifically, that he shall not illegally possess a controlled substance.

On January 13, 2018, Austin Gavello was found in possession of a black tar substance while a resident at the Spokane Residential Reentry Center (RRC). He admitted to RRC staff that the black tar substance that he was in possession of was heroin.

- 3      **Mandatory Condition #3:** The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

**Supporting Evidence:** On October 4, 2016, Mr. Gavello was informed of his conditions of probation and given a copy of his judgment. Mr. Gavello understood that he needed to follow all conditions of probation. Specifically, that he shall refrain from any unlawful use of a controlled substance.

On January 13, 2018, Austin Gavello was found in possession of a black tar substance while a resident at the Spokane Residential Reentry Center (RRC). He admitted to RRC staff that the black tar substance that he was in possession of was heroin. He further admitted that he, along with another RRC resident, consumed heroin.

- 4      **Standard Condition #3:** The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.

**Supporting Evidence:** On October 4, 2016, Mr. Gavello was informed of his conditions of probation and given a copy of his judgment. Mr. Gavello understood that he needed to follow all conditions of probation. Specifically, that he follow the instructions of the probation officer.

On December 7, 2017, Austin Gavello was directed by the undersigned officer to remain at the Spokane RRC, until it was determined that his release was appropriate. However, on January 13, 2017, he was found to have violated the RRC program rules, and he was discharged from the facility.

- 5      **Standard Condition # 5:** The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons.

**Supporting Evidence:** On October 4, 2016, Mr. Gavello was informed of his conditions of probation and given a copy of his judgment. Mr. Gavello understood that he needed to follow all conditions of probation. Specifically, that he work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons.

Austin Gavello has failed to secure and maintain legitimate employment for the duration of his term of probation. He last reported working for Dynamic Decks in July 2017. However, by his own admission, he was working "under the table."

- 6      **Standard Condition # 10:** The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer.

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**Supporting Evidence:** On October 4, 2016, Mr. Gavello was informed of his conditions of probation and given a copy of his judgment. Mr. Gavello understood that he needed to follow all conditions of probation. Specifically, that he not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer.

On January 13, 2017, at 9:43 p.m., Austin Gavello was contacted by Spokane County sheriff's deputies while in a vehicle with Delbert Lee, Jr. Mr. Lee is a convicted felon, who is also under active supervision of the U.S. Probation Office for the Eastern District of Washington. Mr. Gavello was not granted permission to associate with Mr. Lee.

The U.S. Probation Office respectfully recommends the Court issue a warrant requiring the offender to appear to answer to the allegation(s) contained in this petition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 1/16/2018

s/Richard Law

Richard Law  
U.S. Probation Officer

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#### THE COURT ORDERS

- ☐ No Action
- ☒ The Issuance of a Warrant
- ☐ The Issuance of a Summons
- ☐ Other



Signature of Judicial Officer

1/16/18

Date